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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,217	01/02/2004	Kenneth K. Cyr	CRNI.111419	6647

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EXAMINER	
SEREBOFF, NEAL	
ART UNIT	**PAPER NUMBER**
3626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/750,217	CYR ET AL.	
	Examiner	Art Unit	
	Neal R. Sereboff	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/9/2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Notice to Applicant

1. Claims 1 – 30 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21 – 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 21 is directed toward a clinical related supply policy. A §101 inquiry is directed to the determination of whether the claimed subject matter as a whole is a disembodied mathematical concept representing nothing more than a "law of nature" or an "abstract idea," or if the mathematical connect has been reduced to some practical application rendering it "useful." A claimed process that produces a useful, concrete, tangible result without re-empting other uses of the mathematical principal falls within the scope of §101. The claim 21 result of "aggregating the patient supply consumption data" is not tangible but represents a disembodied "abstract idea." Claims 22 through 30 are thus drawn to the abstract idea of generating comparative clinical supply reports, rather than to a practical application of the idea as required by 35 U.S.C. §101.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1 – 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBusk et al., U.S. Patent Number 5,682,728 (see reference A on the attached PTO-892) in view of Huang et al., U.S. Patent Number 6,151,582 (see reference B on the attached PTO-892).

5. As per claim 1, DeBusk teaches a system for managing clinically related supply procurement, comprising:

- A first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- A second interface to receive care provider preference data from the at least one clinically related site (see column 4, lines 51 – 65 where the codes define the provider preferences).

DeBusk does not explicitly teach a system for managing clinically related supply procurement, comprising:

- An analytic engine, the analytic engine communicating with the first interface and the second interface to aggregate the patient supply consumption data to evaluate comparative clinical supply policies.

However, Huang teaches a system for managing clinically related supply procurement, comprising:

- An analytic engine, the analytic engine communicating with the first interface and the second interface to aggregate the patient supply consumption data to evaluate

comparative clinical supply policies (see column 34, line 64 through column 35 line 5).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

6. As per claim 2, DeBusk in view of Huang teaches the system of claim 1 as described above. Debusk further teaches the system wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 3, lines 53 – 65).

7. As per claim 3, DeBusk in view of Huang teaches the system of claim 1 as described above. Debusk further teaches the system wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 6, lines 1 – 13).

8. As per claim 4, DeBusk in view of Huang teaches the system of claim 1 as described above. Debusk further teaches the system wherein the care provider preference data comprises a preference card (see column 3, lines 25 – 50 where the provider preference card is defined by the care event standard).

9. As per claim 5, DeBusk in view of Huang teaches the system of claim 4 as described above. Debusk further teaches the system wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (see column 3, lines 25 – 50).

10. As per claim 6, DeBusk in view of Huang teaches the system of claim 1 as described above.

Debusk does not explicitly teach the system wherein the analytic reports comprise comparisons between alternative supply selections.

However, Huang teaches a system wherein the analytic reports comprise comparisons between alternative supply selections (see column 12, line 65 through column 13, line 1).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

11. As per claim 7, DeBusk in view of Huang teaches the system of claim 6 as described above.

Debusk does not explicitly teach the system wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections.

However, Huang teaches a system wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (see column 55, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

12. As per claim 8, DeBusk in view of Huang teaches the system of claim 6 as described above.

Debusk does not explicitly teach the system wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections.

However, Huang teaches a system wherein comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (see column 41, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 25 – 32).

13. As per claim 9, DeBusk in view of Huang teaches the system of claim 1 as described above. Debusk further teaches the system wherein the analytic reports comprise reports on the patient supply consumption data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (see column 6, lines 1 – 25 where the care event is a procedure type).

14. As per claim 10, DeBusk in view of Huang teaches the system of claim 1 as described above. Debusk further teaches the system wherein the care provider preference data is updated according to updated clinical supply policies (see column 1, lines 37 – 47 where the event procedure or clinical pathway is defined by policy).

15. As per claim 11, Debusk teaches a method for managing clinically related supply procurement, comprising:

- Receiving patient supply data captured from at least one- clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving care provider preference data from the at least one clinically related site (see column 4, lines 51 – 65 where the codes define the provider preferences).

Debusk does not explicitly teach a method for managing clinically related supply procurement, comprising:

- Aggregating the patient supply consumption data to evaluate comparative clinical supply policies.

However, Huang teaches a method for managing clinically related supply procurement, comprising:

- Aggregating the patient supply consumption data to evaluate comparative clinical supply policies (see column 34, line 64 through column 35 line 5).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

16. As per claim 12, DeBusk in view of Huang teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the patient supply data

comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 3, lines 53 – 65).

17. As per claim 13, DeBusk in view of Huang teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 6, lines 1 – 13).

18. As per claim 14, DeBusk in view of Huang teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the care provider preference data comprises a preference card (see column 3, lines 25 – 50 where the provider preference card is defined by the care event standard).

19. As per claim 15, DeBusk in view of Huang teaches the method of claim 14 as described above. DeBusk further teaches the method wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (see column 3, lines 25 – 50).

20. As per claim 16, DeBusk in view of Huang teaches the method of claim 11 as described above.

Debusk does not explicitly teach the method comprising a step of performing comparisons between alternative supply selections.

However, Huang teaches a method comprising a step of performing comparisons between alternative supply selections (see column 12, line 65 through column 13, line 1).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the

chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

21. As per claim 17, DeBusk in view of Huang teaches the method of claim 16 as described above.

Debusk does not explicitly teach the method wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections.

However, Huang teaches a method wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (see column 55, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

22. As per claim 18, DeBusk in view of Huang teaches the method of claim 17 as described above.

Debusk does not explicitly teach the method wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections.

However, Huang teaches a method wherein comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (see column 41, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have

added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 25 – 32).

23. As per claim 19, DeBusk in view of Huang teaches the method of claim 11 as described above. DeBusk further teaches the method comprising a step of generating reports on the patient supply consumption data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (see column 6, lines 1 – 25 where the care event is a procedure type).

24. As per claim 20, DeBusk in view of Huang teaches the method of claim 11 as described above. DeBusk further teaches the method comprising a step of updating the care provider preference data according to updated clinical supply policies (see column 1, lines 37 – 47 where the event procedure or clinical pathway is defined by policy).

25. As per claim 21, Debusk teaches a clinically related supply policy, generated according to a method comprising:

- Receiving patient supply data captured from at least one clinically related site, the patient supply data comprising patient supply consumption data (see column 5, lines 6 – 21 where the event is consumption);
- Receiving care provider preference data from the at least one clinically related site (see column 4, lines 51 – 65 where the codes define the provider preferences).

Debusk does not explicitly teach a clinically related supply policy, generated according to a method comprising:

- Aggregating the patient supply consumption data to evaluate comparative clinical supply policies.

However, Huang teaches a clinically related supply policy, generated according to a method comprising:

- Aggregating the patient supply consumption data to evaluate comparative clinical supply policies (see column 34, line 64 through column 35 line 5).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

26. As per claim 22, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above. DeBusk further teaches the clinically related supply policy wherein the patient supply data comprises at least one of surgical device information, pharmaceutical information, and consumable material information (see column 3, lines 53 – 65).

27. As per claim 23, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above. DeBusk further teaches the clinically related supply policy wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (see column 6, lines 1 – 13).

28. As per claim 24, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above. DeBusk further teaches the clinically related supply policy wherein the care provider preference data comprises a preference card (see

column 3, lines 25 – 50 where the provider preference card is defined by the care event standard).

29. As per claim 25, DeBusk in view of Huang teaches the clinically related supply policy of claim 24 as described above. DeBusk further teaches the clinically related supply policy wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (see column 3, lines 25 – 50).

30. As per claim 26, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above.

Debusk does not explicitly teach the clinically related supply policy wherein the method further comprises a step of performing comparisons between alternative supply selections.

However, Huang teaches a clinically related supply policy wherein the method further comprises a step of performing comparisons between alternative supply selections (see column 12, line 65 through column 13, line 1).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

31. As per claim 27, DeBusk in view of Huang teaches the clinically related supply policy of claim 26 as described above.

Debusk does not explicitly teach the clinically related supply policy wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections.

However, Huang teaches a clinically related supply policy wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (see column 55, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 44 – 48).

32. As per claim 28, DeBusk in view of Huang teaches the clinically related supply policy of claim 26 as described above.

Debusk does not explicitly teach the clinically related supply policy wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections.

However, Huang teaches a clinically related supply policy wherein comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (see column 41, lines 15 – 31).

It would be prima facie obvious to one of ordinary skill in the art at the time of the invention to add this feature into DeBusk. One of ordinary skill in the art would have added this feature into DeBusk to allow a decision maker in a supply chain to view the

chain from their own perspective and understand the effect that their decisions will have on the supply chain as a whole (see Huang column 1, lines 25 – 32).

33. As per claim 29, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above. DeBusk further teaches the clinically related supply policy wherein the method further comprises a step of generating reports on the patient supply consumption data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (see column 6, lines 1 – 25 where the care event is a procedure type).

34. As per claim ~~29~~ 30, DeBusk in view of Huang teaches the clinically related supply policy of claim 21 as described above. DeBusk further teaches the clinically related supply policy wherein the method further comprises a step of updating the care provider preference data according to updated clinical supply policies (see column 1, lines 37 – 47 where the event procedure or clinical pathway is defined by policy).

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pre-Grant Publication Number 2002/0077850 McMenimen et al. (see reference C on the attached PTO-892).

U.S. Pre-Grant Publication Number 2002/0188469 Shalmi et al. (see reference D on the attached PTO-892).

U.S. Pre-Grant Publication Number 2002/0007290 Gottlieb (see reference E on the attached PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal R. Sereboff whose telephone number is (571) 270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NRS
2/26/2007

Robert Morgan
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Art Unit 3626